U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: JUL 20 2009
SRC 02 249 53221

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The AAO will summarily dismiss the appeal.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B Notice of Appeal, filed on December 4, 2003, counsel indicated that a brief would be forthcoming within thirty days. The AAO did not receive the appeal until June 30, 2009. To date, more than five and a half years after the filing of the appeal, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

An attachment to the appeal form reads:

> USCIS has used an incorrect standard in reviewing the petition . . . for a national interest waiver as an alien of exceptional ability in the arts. The Commissioner has found that an alien of exceptional ability in the arts, who furthers cultural interests, is eligible for a national interest waiver. Ample evidence was submitted to show [the petitioner's] exceptional ability as an artist and his recognition in the industry in the U.S. Legal authorities will be submitted in a separate brief within 30 days.

The above statement makes no specific allegation of error. The director did not state that aliens of exceptional ability in the arts are categorically ineligible for the national interest waiver, and it is clear from section 203(b)(2) of the Act that exceptional ability in the arts does not automatically qualify an alien for the waiver. Therefore, counsel's assertions are not relevant to the stated grounds for denial. The bare assertion that the director relied on an "incorrect standard," without identifying that standard or showing it to be incorrect, is not a sufficient basis for a substantive appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.